

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 05-0015**  
**Individual Income Tax**  
**For the Years 1998 and 1999**

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**ISSUE**

**Individual Income Tax—Validity of assessment**

**Authority:** IC 6-8.1-5-1(a) and (b); IC 6-3-2-1(a); IC 6-3-4-1; IC 6-3-4-5.

Taxpayer protests the validity of the assessment of individual income tax by the State of Indiana.

**STATEMENT OF FACTS**

Taxpayer failed to file Indiana individual income tax returns for 1998 and 1999. The Department prepared returns for Taxpayer based on information obtained from the Internal Revenue Service and issued assessments for the tax due. Taxpayer protested asserting that the assessments were grossly in error and that no valid assessment was ever made. The Department wrote Taxpayer asking him to present any information to refute the assessments. Taxpayer submitted no additional documentation. The Department forwarded the protest to a hearing officer so that a hearing could be scheduled. Taxpayer did not respond to requests to schedule a hearing; a fixed date to respond by was stated. That date having passed, this letter of findings is written based upon the information contained within the file.

**DISCUSSION**

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). Taxpayer was informed of this in correspondence replying to his protest.

IC 6-3-2-1(a) imposes an individual income tax upon the adjusted gross income of Indiana residents and on the portion of adjusted gross income of nonresidents derived from Indiana sources. IC 6-3-4-1 requires Indiana residents to file an income tax return if they have adjusted gross income in excess of the modifications provided under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). Taxpayer had adjustable gross income in excess of these modifications. IC 6-3-4-5 states that if a taxpayer is required to file an income tax return, he shall pay any tax due and is entitled to take as credit toward the tax due any payments made for the taxable year.

IC 6-8.1-5-1(a) states that if the Department reasonably believes that a person has not reported the proper amount of tax due, the Department is required by law to issue an assessment of the amount of the unpaid tax on the basis of the best information available to the Department. The Department received information from the Internal Revenue Services concerning Taxpayer's income for 1998 and 1999 and based upon this issued assessments. IC 6-8.1-5-1(b) states that the notice of assessment is prima facie evidence that the Department's claim for unpaid tax is valid; the burden of proving that the assessment is wrong rests with the person against whom the assessment is made. Taxpayer has been afforded opportunities to rebut the assessments and has not presented documentation or information sufficient to rebut the assessments.

### **FINDING**

For the reasons stated above, Taxpayer's protest is denied.

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